

EXHIBIT Q

Office of Information Governance and Privacy

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



**U.S. Immigration
and Customs
Enforcement**

October 25, 2021

Krista Oehlke
ACLU of Massachusetts
211 Congress Street
Boston, MA 02110

**RE: ACLU of Massachusetts, Inc. and American Oversight v. ICE 21-cv-10761
ICE FOIA Case Number 2021-ICLI-00041
Amended Release**

Dear Ms. Oehlke,

This letter is in response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE), dated November 18, 2019, seeking the following:

1. All communications (including emails, email attachments, calendar invitations, text messages, memoranda, or other communication) of the following ICE Officials concerning Judge Joseph, Officer MacGregor, and/or the events alleged in the Indictment.
2. All records concerning any investigations by ICE of Judge Joseph, Officer MacGregor and/or the events alleged in the Indictment, including but not limited to any notes, reports, and memoranda.
3. All records of final guidance, directives, or instructions provided by ICE to Mr. Lelling or his staff concerning Judge Joseph, Officer MacGregor and/or the events alleged in the Indictment.

ICE has considered this request under the FOIA, 5 U.S.C. § 552. Upon review ICE has determined that 54 pages will be released in full, 3 pages will be withheld in full, and portions of 26 pages will be withheld pursuant to Exemptions 5, 6, 7(A), 7(C), and 7(E) of the FOIA, 5 U.S.C. § 552 as described below. Please note that 259 pages were deemed duplicates or non-responsive. The remaining 83 pages have been Bates numbered 2021-ICLI-00041 1 through 2021-ICLI-00041 83.

ICE has applied Exemption 5 to protect from disclosure intra-agency documents that contain the recommendations, opinions, and conclusions of agency employees. The disclosure of these communications would discourage the expression of candid opinions and inhibit the free and frank exchange of information and opinions among agency personnel on important agency decision-making by having a chilling effect on the agency's deliberative process.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client

privilege. After carefully reviewing the responsive documents, I have determined that portions of the responsive documents qualify for protection under the deliberative process privilege and the attorney-client privilege. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names, e-mail addresses, and phone numbers of ICE and DHS employees contained within the documents, as well as the names, and other personally identifiable information of other individuals contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

ICE has applied FOIA Exemption 7(A) to protect from disclosure records and information determined to relate to open and ongoing criminal investigations and are properly withheld in their entirety pursuant to 5 U.S.C. § 552 (b)(7)(A).

FOIA Exemption 7(A) protects from disclosure records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with ongoing enforcement proceedings. Should the records or information be disclosed prematurely, prior to completion of the criminal investigation or conclusion of the law enforcement proceeding, the premature disclosure could reasonably be expected to interfere with law enforcement proceedings and final agency actions related to those proceedings. Please be advised that once all pending matters are resolved and FOIA Exemption 7(A) is no longer applicable, there may be other applicable exemptions which could protect from disclosure certain information in the requested records.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them

Page 3 of 3

revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

The ICE FOIA Office applied FOIA Exemption (b)(7)(E) to protect from disclosure an internal law enforcement sensitive investigative technique. The release of this information would disclose investigative techniques and procedures, and could be reasonably expected to risk circumvention of the law.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this letter, please contact Assistant U.S. Attorney Michael Sady at michael.sady@usdoj.gov or (617) 748-3100.

Sincerely,

LYNNEA A SCHURKA
M
Lynnea Schurkamp
Deputy FOIA Officer for

Digitally signed
by LYNNEA A
SCHURKAMP
Date: 2021.10.25
15:50:48 -04'00'

Fernando Pineiro Jr.
(A)FOIA Officer

Enclosure: 83 pages

From: Short, Tracy
Sent: 25 Apr 2019 18:56:15 +0000
To: Gountanis, John
Subject: RE: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Saw that. Just wonder about the jury pool.

From: Gountanis, John (b)(6); (b)(7)(C)
Sent: Thursday, April 25, 2019 1:58 PM
To: Short, Tracy (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: Fwd: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

From: Palermo, Andrea (b)(6); (b)(7)(C)
Sent: Thursday, April 25, 2019 1:21 PM
Subject: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Fox News

Katherine Lam

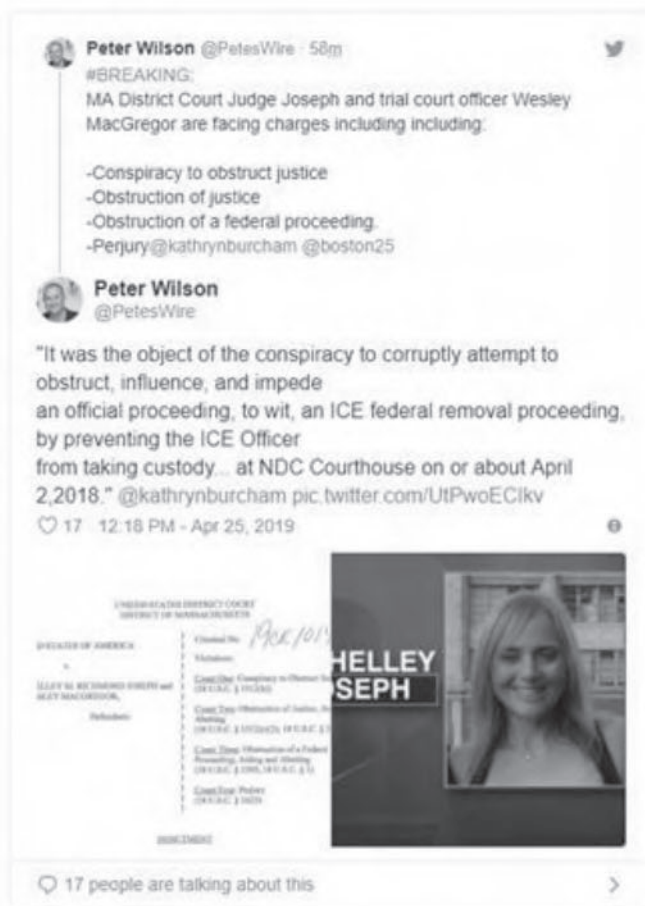
April 25, 2019

<https://www.foxnews.com/us/massachusetts-judge-who-helped-illegal-immigrant-escape-ice-arrest-indicted-federal-authorities-say>

A Massachusetts judge and a court officer accused of helping an illegal immigrant flee an Immigration and Customs Enforcement agent waiting to take him into custody were indicted Thursday by a federal grand jury for obstruction of justice and three other counts, officials said.

U.S. Attorney for the District of Massachusetts Andrew Lelling was set to officially announce the charges at a 12:45 p.m. news conference, according to a tweet from the office's official account.

Newton District Court Judge Shelley M. Richmond Joseph and the court officer, identified in court documents as Wesley MacGregor, face several charges stemming from an April 2, 2018 incident in which the pair allegedly helped Jose Medina-Perez get out of the courthouse via a back door in order to elude the ICE agent who sought Medina-Perez. They're both charged with obstruction of justice, aiding and abetting; obstruction of a federal proceeding, aiding and abetting and conspiracy to obstruct justice. MacGregor was also charged with perjury before a federal grand jury.



Medina-Perez, a twice-deported illegal immigrant with a fugitive warrant for drunken driving in Pennsylvania, had been in Joseph's courtroom in order to be arraigned on drug charges, the Boston Globe reported.

ICE issued a detainer on Medina-Perez, a written request to hold an individual wanted for deportation for up to 48 hours, and had an agent waiting outside the courthouse to detain Medina-Perez after the arraignment, officials said. But during the hearing, Joseph asked Medina-Perez's attorney "ICE is going to get him?," according to courtroom recordings obtained by the Boston Globe in December and released in court documents on Thursday.

His lawyer was also heard telling Joseph "ICE will pick him up if he walks out the front door. But I think the best thing for us to do is clear the fugitive issue and release him on a personal, and hope that he can avoid ICE...That's the best I can do."

"What if we detain him?," the judge said before asking the clerk to turn off the courtroom's audio recorder, leaving the next 58 seconds unrecorded.

Minutes later, Medina-Perez's attorney said his client "has some property downstairs" and needed to speak to an interpreter, which Joseph allowed.

MacGregor then used his security access card to escort Medina-Perez out of the courthouse without being seen by the ICE agent, court documents stated.

"With the recorder off, defendant Joseph and the Defense Attorney discussed devising a way to have [Medina-Perez] avoid being arrested by the ICE officer," court documents stated.

Joseph was appointed Newton District judge by Massachusetts Gov. Charlie Baker in 2017 after several years serving as a criminal defense attorney and a prosecutor, the Boston Globe reported.

After reports of Joseph's alleged intervention emerged in December, Baker told reporters he believed Joseph should be benched while the incident was investigated.

"I don't believe she should be hearing criminal cases until that federal case is resolved," Baker said about Joseph. "Look, judges are not supposed to be in the business of obstructing justice. And as far as I can tell, based on the facts as they were presented, she clearly violated the court's own policies with respect to the way they're supposed to handle continuance and involve federal immigration enforcement."

Medina-Perez's freedom was short-lived. He was arrested a month later after the court hearing and again let go, this time by an immigration judge who freed him on bond, the Boston Globe reported. That case is currently pending, officials said. The 38-year-old native of the Dominican Republic had been previously deported in January 2003 and June 2007, ICE said. His real name is Oscar Manuel Peguero, although he goes by several aliases.

From: Short, Tracy
Sent: 25 Apr 2019 18:01:13 +0000
To: (b)(6); (b)(7)(C)
Subject: FW: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

The first of many?

From: (b)(6); (b)(7)(C)
Sent: Thursday, April 25, 2019 1:22 PM
Subject: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Fox News

Katherine Lam

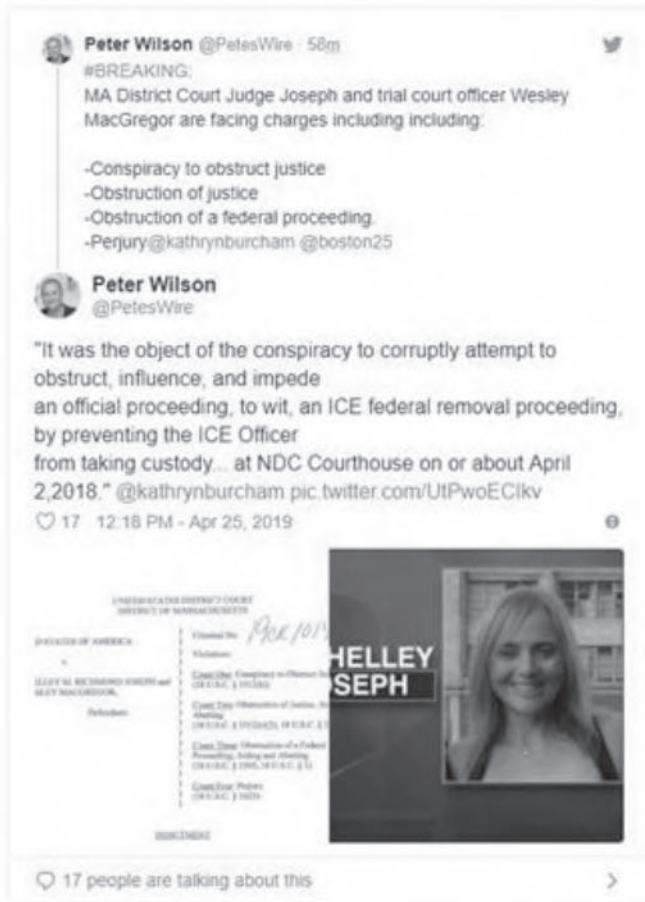
April 25, 2019

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From: Loiacono, Adam V
Sent: 25 Apr 2019 18:01:51 +0000
To: Short, Tracy; Davis, Mike P; Padilla, Kenneth (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
Subject: RE: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say
Attachments: indictment.pdf

Tracy-

Here is the indictment. It is a very interesting read.

Thanks,

Adam V. Loiacono
Deputy Principal Legal Advisor for Enforcement and Litigation
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
Desk: 202-732-(b)(6); (b)(7)(C)
Iphone: 202-50-(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)@ice.dhs.gov

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From: Short, Tracy
Sent: Thursday, April 25, 2019 2:00 PM
To: Davis, Mike P (b)(6); (b)(7)(C)@ice.dhs.gov>; Padilla, Kenneth (b)(6); (b)(7)(C)@ice.dhs.gov>;
Loiacono, Adam V (b)(6); (b)(7)(C)@ice.dhs.gov>; Davidson, Michael J
(b)(6); (b)(7)(C)@ice.dhs.gov>; Loiacono, Adam V (b)(6); (b)(7)(C)@ice.dhs.gov> (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)@ice.dhs.gov> (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: FW: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

FYSA

From: (b)(6); (b)(7)(C)
Sent: Thursday, April 25, 2019 1:22 PM
Subject: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

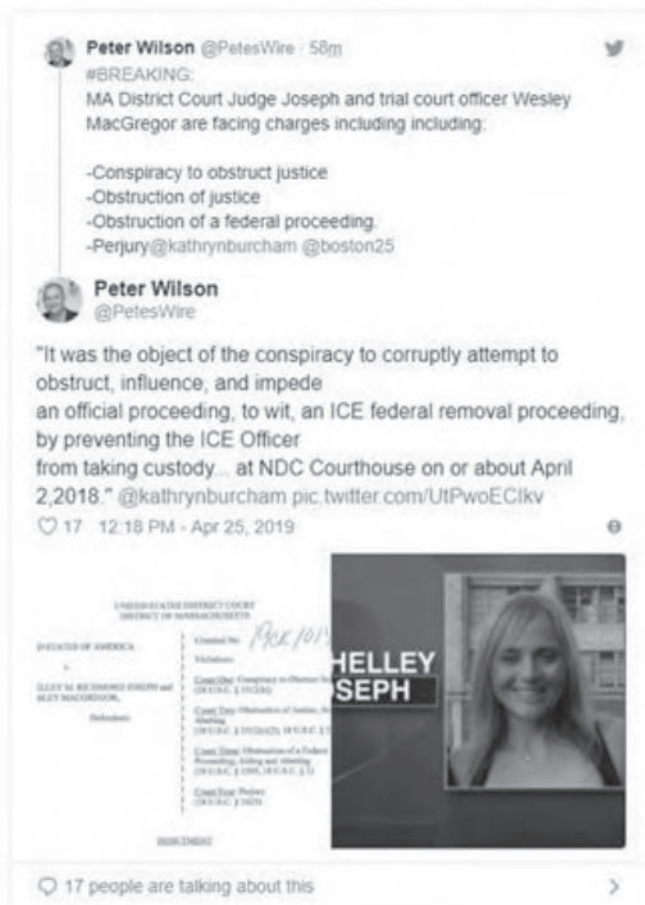
Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say
Fox News
Katherine Lam
April 25, 2019

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

(1) SHELLEY M. RICHMOND JOSEPH and
(2) WESLEY MACGREGOR,

Defendants

Criminal No. 19cr10141

Violations:

Count One: Conspiracy to Obstruct Justice
(18 U.S.C. § 1512(k))

Count Two: Obstruction of Justice; Aiding and
Abetting
(18 U.S.C. § 1512(c)(2); 18 U.S.C. § 2)

Count Three: Obstruction of a Federal
Proceeding; Aiding and Abetting
(18 U.S.C. § 1505; 18 U.S.C. § 2)

Count Four: Perjury
(18 U.S.C. § 1623)

INDICTMENT

At all times relevant to this Indictment:

Introduction

1. The United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE") was the federal governmental agency charged with enforcing federal immigration law in the United States. ICE's duties included conducting federal removal proceedings, which encompassed, among other things, identifying, apprehending, and initiating the removal process of aliens in the United States, who were subject to Immigration Court or other administratively issued final orders of removal.

2. The Newton District Court (“NDC” or “Courthouse”) was a District Court within Middlesex County, Massachusetts, that had two courtrooms, a clerk’s office, a probation office, and a lockup facility, which was situated on the bottom level of the Courthouse. The NDC had one to two assigned District Court Judges presiding over court matters, which included certain criminal, civil, housing, juvenile, and other types of cases under Massachusetts state or local laws.

3. Defendant Shelley M. Richmond JOSEPH was appointed as a Massachusetts District Court Judge on or about November 6, 2017, and was thereafter assigned to preside at various District Courts in Middlesex County, including NDC, in accordance with a monthly assignment schedule. Defendant JOSEPH had presided as the Judge at NDC on several occasions prior to April 2, 2018. Prior to her appointment, defendant JOSEPH was an experienced Newton-based criminal defense attorney, who was a partner in a small law practice, and who had previously lectured at law schools and professional legal education seminars on criminal and civil practice. As a District Court Judge, defendant JOSEPH had the authority to, among other things, arraign criminal defendants, set bail, detain or release defendants, and control other courtroom proceedings.

4. Defendant Wesley MACGREGOR was a Massachusetts Trial Court Officer since 1993 and was assigned to the NDC since approximately 2016. As an NDC Court Officer, defendant MACGREGOR was authorized to take custody of defendants within the NDC, and had security card access to the entry and exit doors to the lower level NDC lockup facility, including the rear, sally-port exit to the lockup.

5. The defense attorney (the “Defense Attorney”) was a criminal defense lawyer who regularly represented criminal defendants at the NDC. The Defense Attorney was familiar with

defendant JOSEPH as a judge and defense lawyer, and with defendant MACGREGOR from frequent appearances at the NDC.

6. The alien subject (“A.S.”) was arrested on March 30, 2018 by Newton Police and charged under Massachusetts General Law with being a fugitive from justice from Pennsylvania (the “M.G.L. Fugitive Charge” or “MGL Count 1”) and narcotics possession (the “M.G.L. Drug Charges” or “MGL Counts 2 and 3,” together with MGL Count 1, the “M.G.L. Charges”). On April 2, 2018, A.S. was arraigned on the M.G.L. Charges in the NDC before defendant JOSEPH. A.S. retained the Defense Attorney as A.S.’s lawyer for the NDC proceedings.

Federal ICE Proceedings

7. Fingerprints of A.S. taken by Newton Police on March 30, 2018 and submitted to a national law enforcement database revealed that A.S. had been previously deported from the United States by federal immigration officials in 2003 and again in 2007. Federal immigration records revealed that, upon A.S.’s last removal, a federal immigration official had issued an order that prohibited A.S. from entering the United States for a period of twenty years, that is, until 2027.

8. After learning of A.S.’s arrest by Newton Police, on or about March 30, 2018, an ICE Immigration Officer issued a federal Immigration Detainer – Notice of Action (the “Detainer”), and a Warrant of Removal (the “Warrant”) for A.S. to Newton Police. The Detainer requested that Newton Police: (i) notify ICE prior to any release of A.S.; (ii) relay the Detainer to any other law enforcement agency to whom Newton Police transferred A.S.; and (iii) maintain custody of A.S. for up to 48 hours for ICE to take custody. The Warrant stated that A.S. was subject to removal from the United States based upon a final order by a designated official, and that any

Immigration Officer with the United States Department of Homeland Security was commanded to take custody of A.S. for removal from the United States.

9. On April 2, 2018, Newton Police transferred custody of A.S. to the NDC and forwarded the Detainer and the Warrant to the NDC Clerk's Office, with copies of the same provided to the Assistant District Attorney assigned to NDC from the Middlesex District Attorney's Office (the "ADA"), and the NDC Probation Office ("Probation"), among other Courthouse personnel, and the Defense Attorney.

10. As part of ICE removal proceedings, on the morning of April 2, 2018, ICE dispatched an ICE Officer (the "ICE Officer") in plainclothes to execute the Warrant and take custody of A.S. upon A.S.'s release from the NDC. At the NDC, the ICE Officer, in accordance with DHS Policy (see below), notified NDC personnel (including, among others, the Court Officers, the Clerk of Court (the "Clerk"), and the ADA), and the Defense Attorney of the ICE Officer's identity and purpose at the Courthouse on that date.

Newton District Court – Custom, Practice, and Rules

11. The NDC maintained a regular court calendar during which criminal and civil case matters were heard before the NDC District Court Judge in the first-floor courtroom (the "Courtroom"). Defendants in NDC custody were held in the lockup area in the lower level of the Courthouse, and were brought upstairs by an NDC Court Officer to an enclosed glass dock in the Courtroom for their court appearances. If a defendant was released from custody, the normal custom and practice in NDC was for the Court Officer to release the defendant from the glass dock on the first floor and out into the Courtroom, which had one public entry/exit that led to the NDC lobby.

12. On or about November 10, 2017, the Executive Office of the Massachusetts Trial Court issued guidance to all Massachusetts state judges, clerks, and other courthouse personnel titled, “Policy and Procedures Regarding Interactions with the Department of Homeland Security,” (“DHS Policy”). The DHS Policy instructed, in pertinent part, that (1) “Trial Court employees should be mindful that courthouses are public spaces that are open to all persons and that all persons entering a courthouse should be treated with respect and dignity, including individuals subject to civil immigration detainers and DHS employees;” (2) “DHS officials may enter a courthouse to perform their official duties;” and (3) that, “pursuant to an immigration detainer or warrant, court officers shall permit the DHS official(s) to enter the holding cell area in order to take custody of the individual once Trial Court security personnel have finished processing that individual out of the court security personnel’s custody.”

13. Massachusetts Rules of Court, which prescribed rules for all state district courts, including NDC, provided, in pertinent part, that “[A]ll courtroom proceedings, including arraignments in criminal ... cases, shall be recorded electronically” The NDC had an electronic recording device in the Courtroom, which the Clerk operated to record all NDC proceedings.

The April 2, 2018 NDC Proceedings

14. On April 2, 2018, defendant JOSEPH was assigned as the District Court Judge at NDC, hearing and ruling on several criminal proceedings in the Courtroom on that date. The proceedings were electronically recorded by the Clerk, who was seated directly in front of defendant JOSEPH’s bench at the front of the Courtroom. The ADA, probation officers, court officers, including defendant MACGREGOR, defense attorneys, and other members of the public were also in attendance.

15. At approximately 9:30 a.m., the ICE Officer arrived in plainclothes at NDC. The ICE Officer announced his identity and purpose to various Courthouse personnel, including the Clerk, who informed defendant JOSEPH. The ICE Officer then remained in the public audience area of the Courtroom during the morning session.

16. At approximately 10:34 a.m., defendant JOSEPH assigned a court-appointed lawyer ("Bar Advocate") to A.S. and arraigned A.S. on the M.G.L. Charges, but agreed to re-call the case later that day after ordering the ADA to provide more information to the Court and the Bar Advocate as to the M.G.L. Fugitive Charge.

17. At approximately 12:04 p.m., defendant JOSEPH re-called A.S.'s case and asked the ADA for the Commonwealth's position as to bail or detention of A.S. on the M.G.L. Charges. The ADA told defendant JOSEPH that the ADA would not seek to detain A.S. on the M.G.L. Drug Charges, but would only make a bail request for the M.G.L. Fugitive Charge. A.S.'s case was then set for a further call later that afternoon to address the M.G.L. Fugitive Charge.

18. Following the 12:04 p.m. proceeding, associates of A.S. retained the Defense Attorney to represent A.S. on the M.G.L. Charges. The Defense Attorney received copies of the Detainer and Warrant, and was also permitted to review other law enforcement database records that were obtained by Probation in connection with A.S.'s case.

19. Also following the 12:04 p.m. proceeding, at defendant JOSEPH's direction, the Clerk instructed the ICE Officer to leave the Courtroom and wait outside the Courtroom, contrary to the DHS Policy. The Clerk informed the ICE Officer that, in the event of A.S.'s release, A.S. would be released out of the Courtroom into the NDC lobby. The ICE Officer complied and waited in the NDC lobby on the first floor.

20. At approximately 2:48 p.m., A.S.'s case was re-called and the Defense Attorney appeared on behalf of A.S. before defendant JOSEPH. The following proceedings were captured on the Courtroom's court recorder:

Clerk:	Judge, the next case will be Commonwealth versus [A.S.]. [Defense Attorney] has filed an appearance on behalf of [A.S.]
Defendant JOSEPH:	Good afternoon.
Defense Attorney:	Good afternoon, Your Honor. [Defense Attorney] on behalf of [A.S.] May we approach briefly?
Defendant JOSEPH:	Yes, please.
Defense Attorney:	Thank you.
Clerk:	Do you want to wait for your client? Or do it –
Defense Attorney:	No. Sidebar.
Defendant JOSEPH:	We're just going to go sideb- [U ¹] ... is dismissed. So it's my understanding that ICE is here.
Defense Attorney:	So there's the fugitive –
Defendant JOSEPH:	But there's no warrant –
ADA:	Yes.
Defense Attorney:	There isn't [U] that we can tie this to him.
ADA:	Eh-, I, I don't think it's him. ²
Defendant JOSEPH:	Okay.
Defense Attorney:	But ICE is convinced that this guy. I went over to ICE, they say they have a biometric match. I went through and did the research. There's 13 FBI numbers connected to this social. So something's bad with the [U]. My client denies that it's him. ICE is going to pick him up if he walks out the front

¹ Unintelligible on recording.

² Referring to A.S. not being the same person as the subject sought on the Pennsylvania warrant.

door. But I think the best thing for us to do is to clear the fugitive issue, release him on a personal, and hope that he can avoid ICE. ... That's the best I can do.

ADA: I don't think arguing ICE is really my ...

Defense Attorney: Right.

ADA: - my, my ...

Defendant JOSEPH: The other alternative is if you need more time to figure this out - hold until tomorrow ...

Defense Attorney: Yeah, but he -

Defendant JOSEPH: Then it's a different ...

ADA: There is a detainer attached to my paperwork. But, but, I, I feel like that's separate and apart from what my role is.

Defense Attorney: There is an ICE detainer. So if he's bailed out from Billerica when he goes back there, ICE will pick him up -

Defendant JOSEPH: **ICE is gonna get him?**

Defense Attorney: Yeah.

Defendant JOSEPH: **What if we detain him -**

Defense Attorney: Are we on the record?

Defendant JOSEPH: **[Clerk], can we go off the record for a moment?**

Clerk: What's that?

Defendant JOSEPH: Are we off the record?

Clerk: No, we're on the record.

Defense Attorney: Can we go off the record for a minute?

21. In violation of Massachusetts Rules of Court, and at the direction of defendant JOSEPH, the Courtroom recorder was turned off for the next approximately 52 seconds.

22. At approximately 2:51 p.m., the recorder was turned back on and the following excerpted proceedings were captured on the Courtroom recorder:

Clerk: Judge, we're back on the record on [A.S.] [Defense Attorney] on behalf of [A.S.]

Defendant JOSEPH: Good afternoon, [Defense Attorney].

Defense Attorney: Good afternoon. After some extensive research into the various FBI numbers [UI] social security numbers, as well as obtaining a photo from Pennsylvania, we don't believe that this gentleman is the same gentleman as on the fugitive-from-justice warrant.

ADA: Your Honor, with the information that I have I don't think that there is enough tying him to the Pennsylvania warrant. The great deal of other out-of-state records – I do believe that some of them, uh, belong to this individual. But that is not what's at issue here.

Defendant JOSEPH: Okay.

ADA: So at this point I would dismiss, um, the –

Defendant JOSEPH: The fugitive?

ADA: - [MGL] Count 1, -

Defendant JOSEPH: Okay.

ADA: - um, and there's not a bail request for the [MGL] Counts 2 and 3. But I would ask that, for a pretrial conference date on those.

Defendant JOSEPH: Okay.

Defense Attorney: Absolutely.

Defendant JOSEPH: That's fine.

Defense Attorney: **I would ask that he, uh – I believe he has some property downstairs. I'd like to speak with him downstairs with the interpreter if I may."**

Defendant JOSEPH: **That's fine. Of course.**

Defense Attorney: Thank you.

Defense Attorney: All set, Mr. Clerk?
Defendant JOSEPH: Wait just a second.
Clerk: **There was a representative from, uh, ICE here in the Court
... [UI] to, to visit the lockup.**
Defendant JOSEPH: **That's fine. I'm not gonna allow them to come in here.
But he's been released on this.**

Defendant He's released, Mr. Clerk?
MACGREGOR:
Clerk: What's that?
Defendant He's released?
MACGREGOR:
Clerk: He is.
Defense Attorney: Yep.
Defendant JOSEPH: **He is. Um, [Defense Attorney] asked if the interpreter can
accompany him downstairs, um, to further interview him –**
Defense Attorney: Yes, please --
Defendant JOSEPH: **- and I've allowed that to happen. [2:54 p.m.]**

23. Immediately following the proceeding, defendant MACGREGOR escorted A.S. from the Courtroom downstairs to the lockup, accompanied by the Defense Attorney and an interpreter. Once inside the lockup, defendant MACGREGOR used his security access card to open the rear sally-port exit and released A.S. out the back door at approximately 3:01 p.m.

24. The ICE Officer, who had been instructed by the Clerk to wait for A.S. in the lobby directly outside the Courtroom, as that was where A.S. would have been released in accordance with customary NDC practice, was unaware of A.S.'s release out the rear sally-port exit, and was unable to take custody of A.S. pursuant to the Warrant.

The Conspiracy

Object of the Conspiracy

25. It was the object of the conspiracy to corruptly attempt to obstruct, influence, and impede an official proceeding, to wit, an ICE federal removal proceeding, by preventing the ICE Officer from taking custody of A.S. at the NDC Courthouse on or about April 2, 2018.

Manner and Means of the Conspiracy

26. It was a part of the conspiracy that defendant MACGREGOR and the Defense Attorney agreed that defendant MACGREGOR would use his security access card to release A.S. out the rear sally-port exit in order for A.S. to evade arrest by the ICE Officer at the NDC Courthouse.

27. It was a part of the conspiracy that defendant JOSEPH and the Defense Attorney agreed to create a pretext for A.S. to be brought back downstairs to the lockup so that A.S. could be released out the rear sally-port exit in order to evade arrest by the ICE Officer at the NDC Courthouse.

Acts in Furtherance of the Conspiracy

28. In furtherance of the conspiracy and to achieve the object thereof, the defendants and their co-conspirators committed and caused to be committed one or more of the following acts in furtherance of the conspiracy:

29. Defendant JOSEPH ordered the Clerk to turn off the Courtroom recording device to conceal defendant JOSEPH's conversation with the Defense Attorney.

30. With the recorder off, defendant JOSEPH and the Defense Attorney discussed devising a way to have A.S. avoid being arrested by the ICE Officer.

31. Defendant JOSEPH ordered that the ICE Officer be prevented from entering the downstairs Courthouse lockup area.

32. After ordering A.S.'s release, defendant JOSEPH ordered that A.S. be returned downstairs to the lockup for the Defense Attorney to "further interview" A.S., which, in reality, was a pretext to allow A.S. to access the rear sally-port exit in order to avoid the ICE Officer.

33. Once A.S. was returned downstairs to the lockup, defendant MACGREGOR used his security access card to open the sally-port exit and release A.S. from the back door of the Courthouse, contrary to NDC custom and practice.

Defendant JOSEPH's False and Misleading Statements to other District Court Judges

34. Defendant JOSEPH made false and misleading statements regarding the April 2, 2018 incident to other district court judges inquiring about the matter, including defendant JOSEPH's false statements to a senior district court judge during a meeting in mid-April 2018. During this meeting, when asked why the NDC Courtroom recorder was shut off during the April 2, 2018 proceeding, defendant JOSEPH falsely attributed unfamiliarity with the Courtroom recording equipment as the reason the recorder was turned off.

Perjury

35. Beginning in or about May 2018 to in or about April 2019, a federal Grand Jury sitting in Boston, Massachusetts, conducted an investigation into possible violations of federal criminal laws, including Title 18, United States Code, Sections 1512 (c)(2) (obstruction of justice) and 1505 (obstruction of a federal proceeding), in the District of Massachusetts. The circumstances surrounding defendant MACGREGOR's April 2, 2018 release of A.S. from the NDC sally-port exit were material to the Grand Jury's investigation.

36. On or about July 12, 2018, defendant MACGREGOR falsely testified before the federal Grand Jury, in substance and in part, that, prior to releasing A.S. from the sally-port exit, he was unaware that ICE agents were in the Courthouse, and he was unaware there was a detainer for [A.S.]. Defendant MACGREGOR's testimony before the Grand Jury included the following false material declarations:

(A) Q: [Y]ou said you didn't know there was an immigration detainer.

A: I didn't see one.

Q: Did you know there was an immigration detainer?

A: No. I couldn't if I didn't see it.

Q: Well, someone --

A: The clerk's -- clerk's office didn't have it, it wasn't in the clerk's papers, wasn't in the arrest record, and I have not seen an ICE detainer on Mr. [] -- whatever his name is, [A.S.]?

(B) Q: So, am I right that the first time you learned that there had been ICE agents in the courthouse was after [A.S.] was gone when [Court Officer A] said to you, I heard

the judge tell two ICE agents to leave the courtroom?

A: The judge asked them to leave, yes.

Q: The courtroom. And [Court Officer A] told you this after [A.S.] was gone?

A: Correct.

(C) Q: And you did not hear from anyone else that day other than [Court Officer A] that –
that there had been an ICE agent in the courthouse for [A.S.]?

A: Correct.

COUNT ONE
Conspiracy to Obstruct Justice
(18 U.S.C. §§ 1512(k))

The Grand Jury charges:

37. The Grand Jury re-alleges and incorporates by reference paragraphs 1 to 34 of this Indictment.

38. On or about April 2, 2018, in Newton, in the District of Massachusetts, the defendants

(1) SHELLEY M. RICHMOND JOSEPH and
(2) WESLEY MACGREGOR,

conspired with the Defense Attorney to corruptly obstruct, influence, and impede an official proceeding, namely, a federal immigration removal proceeding before the United States Department of Homeland Security.

All in violation of Title 18, United States Code, Sections 1512(k) and 1512(c)(2).

COUNT TWO

Obstruction of Justice; Aiding and Abetting
(18 U.S.C. §§ 1512(c)(2) and 2)

The Grand Jury further charges:

39. The Grand Jury re-alleges and incorporates by reference paragraphs 1 to 34 of this Indictment.

40. On or about April 2, 2018, in Newton, in the District of Massachusetts, the defendants

(1) SHELLEY M. RICHMOND JOSEPH and
(2) WESLEY MACGREGOR,

did corruptly attempt to obstruct, influence, and impede an official proceeding, namely, a federal immigration removal proceeding before the United States Department of Homeland Security.

All in violation of Title 18, United States Code, Sections 1512(c)(2) and 2.

COUNT THREE

Obstruction of a Federal Proceeding; Aiding and Abetting
(18 U.S.C. §§ 1505 and 2)

The Grand Jury further alleges:

41. The Grand Jury re-alleges and incorporates by reference paragraphs 1 to 34 of this Indictment.

42. On or about April 2, 2018, in Newton, in the District of Massachusetts, the defendants

(1) SHELLEY M. RICHMOND JOSEPH and
(2) WESLEY MACGREGOR,

did corruptly influence, obstruct, and impede, and endeavor to influence, obstruct and impede, the due and proper administration of the law under which a pending proceeding was being had before a department and agency of the United States, namely, a federal immigration removal proceeding before the United States Department of Homeland Security.

All in violation of Title 18, United States Code, Sections 1505 and 2.

COUNT FOUR
Perjury
(18 U.S.C. § 1623)

The Grand Jury further charges:

43. The Grand Jury re-alleges and incorporates by reference paragraphs 1 to 33 and 35 to 36 of this Indictment.

44. On or about July 12, 2018, in Boston, in the District of Massachusetts, the defendant


(2) WESLEY MACGREGOR,

while under oath and testifying in a proceeding before a grand jury of the United States knowingly made false material declarations in response to certain questions as set forth in paragraph 36 of this Indictment.

All in violation of Title 18, United States Code, Section 1623.

A TRUE BILL


FOREPERSON


DUSTIN CHAO
CHRISTINE WICHES
ASSISTANT UNITED STATES ATTORNEYS
DISTRICT OF MASSACHUSETTS

District of Massachusetts: APRIL 25, 2019
Returned into the District Court by the Grand Jurors and filed.


DEPUTY CLERK

11:25 am

4/25/19

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense: _____ Category No. II Investigating Agency HSICity Newton Related Case Information:

County Middlesex Superseding Ind./ Inf. _____ Case No. _____
 Same Defendant _____ New Defendant _____
 Magistrate Judge Case Number _____
 Search Warrant Case Number _____
 R 20/R 40 from District of _____

Defendant Information:

Defendant Name Shelley M. Richmond Joseph Juvenile: ☐ Yes ☒ NoIs this person an attorney and/or a member of any state/federal bar: ☒ Yes ☐ No

Alias Name _____

Address (City & State) Natick, MABirth date (Yr only): 1967 SSN (last4#): (b)(6); (b)(7)(C) Sex F Race: W Nationality: USDefense Counsel if known: Thomas Hoopes, Douglas Brooks Address LibbyHoopes, P.C.Bar Number 239340, 636697 399 Boylston St., Boston, MA 02116

U.S. Attorney Information:

AUSA (b)(6); (b)(7)(C) Bar Number if applicable _____Interpreter: ☐ Yes ☒ No List language and/or dialect: _____Victims: ☐ Yes ☒ No If yes, are there multiple crime victims under 18 USC§3771(d)(2) ☐ Yes ☐ NoMatter to be SEALED: ☐ Yes ☒ No☒ Warrant Requested ☐ Regular Process ☐ In Custody

Location Status:

Arrest Date _____

☐ Already in Federal Custody as of _____ in _____☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by: _____ on _____Charging Document: ☐ Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 3

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: 04/25/2019Signature of AUSA: Ch. N. W. C.

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Shelley M. Richmond Joseph

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>18 USC 1512(k)</u>	<u>Conspiracy to Obstruct Justice</u>	<u>1</u>
Set 2	<u>18 USC 1512(c)(2); 18 USC 2</u>	<u>Obstruction of Justice; Aiding & Abetting</u>	<u>2</u>
Set 3	<u>18 USC 1505; 18 USC 2</u>	<u>Obstruction of a Federal Proceeding; Aiding & Abetting</u>	<u>3</u>
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____

JS 45 (5/97) - (Revised U.S.D.C. MA 3/25/2011)

Criminal Case Cover Sheet**U.S. District Court - District of Massachusetts**Place of Offense: _____ Category No. II Investigating Agency HSICity Newton ☒ Related Case Information:County Middlesex Superseding Ind./ Inf. _____ Case No. _____
Same Defendant _____ New Defendant _____
Magistrate Judge Case Number _____
Search Warrant Case Number _____
R 20/R 40 from District of _____**Defendant Information:**Defendant Name Wesley MacGregor Juvenile: ☐ Yes ☒ NoIs this person an attorney and/or a member of any state/federal bar: ☐ Yes ☒ No

Alias Name _____

Address (City & State) Watertown, MABirth date (Yr only): 1962 SSN (last4#): 8892 Sex M Race: W Nationality: USDefense Counsel if known: Carol Starkey Address Conn KavanaughBar Number 554077 One Federal St., 15th fl, Boston, MA 02110**U.S. Attorney Information:**AUSA Dustin Chao, Christine Wichers Bar Number if applicable _____Interpreter: ☐ Yes ☒ No List language and/or dialect: _____Victims: ☐ Yes ☒ No If yes, are there multiple crime victims under 18 USC§3771(d)(2) ☐ Yes ☐ NoMatter to be SEALED: ☐ Yes ☒ No☒ Warrant Requested ☐ Regular Process ☐ In Custody**Location Status:**

Arrest Date _____

☐ Already in Federal Custody as of _____ in _____☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by: _____ on _____Charging Document: ☐ Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 4

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: 04/25/2019Signature of AUSA: Christine Wichers

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Wesley MacGregor

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>18 USC 1512(k)</u>	<u>Conspiracy to Obstruct Justice</u>	<u>1</u>
Set 2	<u>18 USC 1512(c)(2); 18 USC 2</u>	<u>Obstruction of Justice; Aiding & Abetting</u>	<u>2</u>
Set 3	<u>18 USC 1505; 18 USC 2</u>	<u>Obstruction of a Federal Proceeding; Aiding & Abetting</u>	<u>3</u>
Set 4	<u>18 USC 1623</u>	<u>Perjury</u>	<u>4</u>
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____

From: (b)(6); (b)(7)(C)
Sent: 10 Aug 2018 23:34:48 +0000
Subject: FYI: Mass: Massachusetts man (Brandon Ziobrowski) arrested for threatening ICE agents on Twitter

Massachusetts man arrested for threatening ICE agents on Twitter

Brandon Ziobrowski, 33, was arrested after allegedly tweeting that he would give \$500 to anyone who kills an ICE agent.

by Tom Winter and Joe Valiquette / Aug.09.2018 / 11:36 AM ET

A Boston-area man has been arrested by federal agents in New York after threatening U.S. immigration agents on Twitter. Brandon Ziobrowski, 33, of Cambridge, Massachusetts, was arrested Thursday morning after posting on Twitter in July that he would give \$500 to anyone who would kill an Immigrations and Customs Enforcement (ICE) agent.

✕ On or about July 2, 2018, Ziobrowski posted this message on Twitter.U.S. District Court of Massachusetts

According to the indictment, Ziobrowski had previously tweeted his desire to "slit" Sen. John McCain's throat. Starting in February, he began to post tweets promoting violence against law enforcement. In March he began tweeting threatening messages about ICE, according to the indictments. On July 2, he tweeted: "I am broke but I will scrounge and literally give \$500 to anyone who kills an ice agent. @me seriously who else can pledge get it on this let's make it work." His Twitter account was suspended later that month at the request of law enforcement.

The case was developed by the Joint Terrorism Task Force in Boston, and Ziobrowski was arrested in New York at 7:15 a.m. "I can promise you that during my tenure this office will aggressively prosecute those who threaten law enforcement officers," said U.S. Attorney Andrew Lelling. "Enough is enough," said Hank Shaw, special agent in charge of the FBI's Boston field office. "This case presents the violent potential faced by federal law enforcement officers." He is expected to make his first appearance in federal court in Brooklyn on Thursday and will face a charge of using interstate commerce to transmit a threat to injure another.

Respectfully,

(b)(6); (b)(7)(C)
Section Chief

Immigration & Customs Enforcement /Homeland Security Investigations / National Security Investigations Division / National Security Unit / Counterterrorism Section (ICE/HSI/NSID/NSU/CTS)

Senior HSI Advisor/Embed to FBI / CTD / International Terrorism Operations Section (ITOS)

(571) 280 (b)(6); (b)(7)(C)



CONFIDENTIALITY NOTICE: This document may contain confidential and sensitive U.S. Government information, and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies of the original. Any disclosure of this document must be approved by U.S. DHS-ICE/Homeland Security Investigations.

From: Feere, Jon
Sent: Fri, 27 Apr 2018 18:36:08 +0000
To: Blank, Thomas; Albence, Matthew
Subject: DOJ corrects courthouse arrest quote from AUSA
Importance: Normal

I want to make sure you saw the DOJ's message correction effort on the courthouse arrest of the Chinese national fraudster.

Here's the latest:

U.S. Attorney Andrew Lelling in a statement late Thursday said the ICE agents who took Xinyan Wang, 27, into custody outside Boston's federal courthouse were "doing their jobs: enforcing federal law."

"Their efforts to protect the public should be applauded, not criticized," said Lelling, a Trump appointee.

[Top Massachusetts federal prosecutor defends court immigration arrest](#)

This is what was published Wednesday, of course:

The prosecutor, Assistant U.S. Attorney David Tobin, said: "Maybe I should have stopped it."

[U.S. judge criticizes immigration arrest of Chinese woman in exam scam](#)

"I've never seen it in 30 years," Tobin said in court.

[ICE Agents Crash Court To Detain Student, Upsetting Judge](#)

Jon

Jon Feere
Senior Advisor
U.S. Immigration and Customs Enforcement
Department of Homeland Security

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From: Feere, Jon
Sent: Fri, 27 Apr 2018 18:34:16 +0000
To: (b)(6); (b)(7)(C) (ODAG)
Subject: Thank you for the messaging correction
Importance: Normal

Thank you for the supportive quote from the U.S. attorney today regarding ICE arrests at courthouses:

U.S. Attorney Andrew Lelling in a statement late Thursday said the ICE agents who took Xinyan Wang, 27, into custody outside Boston's federal courthouse were "doing their jobs: enforcing federal law."

"Their efforts to protect the public should be applauded, not criticized," said Lelling, a Trump appointee.

Top Massachusetts federal prosecutor defends court immigration arrest

This is what was published Wednesday, of course:

The prosecutor, Assistant U.S. Attorney David Tobin, said: "Maybe I should have stopped it."

U.S. judge criticizes immigration arrest of Chinese woman in exam scam

"I've never seen it in 30 years," Tobin said in court.

ICE Agents Crash Court To Detain Student, Upsetting Judge

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From: Feere, Jon
Sent: Fri, 27 Apr 2018 18:36:37 +0000
To: (b)(6); (b)(7)(C)
Subject: DOJ correction
Importance: Normal

DOJ did some course correction today:

U.S. Attorney Andrew Lelling in a statement late Thursday said the ICE agents who took Xinyan Wang, 27, into custody outside Boston's federal courthouse were "doing their jobs: enforcing federal law."

"Their efforts to protect the public should be applauded, not criticized," said Lelling, a Trump appointee.

Top Massachusetts federal prosecutor defends court immigration arrest

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From: (b)(6); (b)(7)(C)
Sent: Fri, 27 Apr 2018 19:47:30 +0000
To: Feere, Jon
Subject: RE: DOJ correction
Importance: Normal

Much better response. I picked the right flight back, the SOH sat in front of me.

(b)(6);
(b)(7)(C)

Thanks,

(b)(6);
(b)(7)(C)

From: Feere, Jon (b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Friday, Apr 27, 2018, 1:36 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: DOJ correction

DOJ did some course correction today:

U.S. Attorney Andrew Lelling in a statement late Thursday said the ICE agents who took Xinyan Wang, 27, into custody outside Boston's federal courthouse were "doing their jobs: enforcing federal law."

"Their efforts to protect the public should be applauded, not criticized," said Lelling, a Trump appointee.

Top Massachusetts federal prosecutor defends court immigration arrest

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ICE Agents Crash Court To Detain Student, Upsetting Judge

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Senior Advisor
U.S. Immigration and Customs Enforcement
Department of Homeland Security

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From: (b)(6); (b)(7)(C)
Sent: 25 Apr 2019 17:21:40 +0000
Subject: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Fox News

Katherine Lam

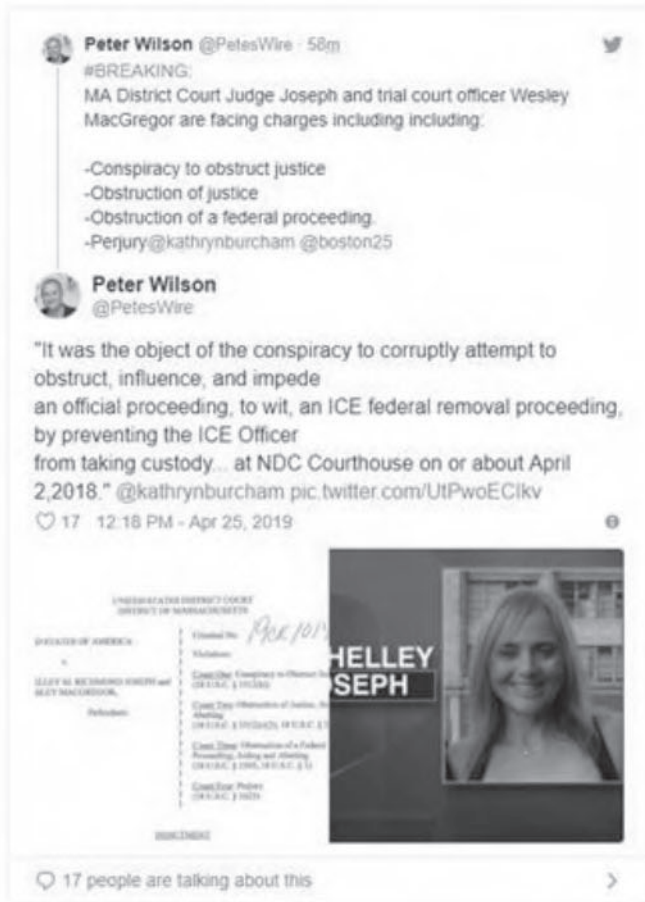
April 25, 2019

<https://www.foxnews.com/us/massachusetts-judge-who-helped-illegal-immigrant-escape-ice-arrest-indicted-federal-authorities-say>

A Massachusetts judge and a court officer accused of helping an illegal immigrant flee an Immigration and Customs Enforcement agent waiting to take him into custody were indicted Thursday by a federal grand jury for obstruction of justice and three other counts, officials said.

U.S. Attorney for the District of Massachusetts Andrew Lelling was set to officially announce the charges at a 12:45 p.m. news conference, according to a tweet from the office's official account.

Newton District Court Judge Shelley M. Richmond Joseph and the court officer, identified in court documents as Wesley MacGregor, face several charges stemming from an April 2, 2018 incident in which the pair allegedly helped Jose Medina-Perez get out of the courthouse via a back door in order to elude the ICE agent who sought Medina-Perez. They're both charged with obstruction of justice, aiding and abetting; obstruction of a federal proceeding, aiding and abetting and conspiracy to obstruct justice. MacGregor was also charged with perjury before a federal grand jury.



Medina-Perez, a twice-deported illegal immigrant with a fugitive warrant for drunken driving in Pennsylvania, had been in Joseph's courtroom in order to be arraigned on drug charges, the Boston Globe reported.

ICE issued a detainer on Medina-Perez, a written request to hold an individual wanted for deportation for up to 48 hours, and had an agent waiting outside the courthouse to detain Medina-Perez after the arraignment, officials said. But during the hearing, Joseph asked Medina-Perez's attorney "ICE is going to get him?," according to courtroom recordings obtained by the [Boston Globe](#) in December and released in court documents on Thursday.

His lawyer was also heard telling Joseph "ICE will pick him up if he walks out the front door. But I think the best thing for us to do is clear the fugitive issue and release him on a personal, and hope that he can avoid ICE...That's the best I can do."

"What if we detain him?," the judge said before asking the clerk to turn off the courtroom's audio recorder, leaving the next 58 seconds unrecorded.

Minutes later, Medina-Perez's attorney said his client "has some property downstairs" and needed to speak to an interpreter, which Joseph allowed.

MacGregor then used his security access card to escort Medina-Perez out of the courthouse without being seen by the ICE agent, court documents stated.

"With the recorder off, defendant Joseph and the Defense Attorney discussed devising a way to have [Medina-Perez] avoid being arrested by the ICE officer," court documents stated.

Joseph was appointed Newton District judge by Massachusetts Gov. Charlie Baker in 2017 after several years serving as a criminal defense attorney and a prosecutor, the Boston Globe reported.

After reports of Joseph's alleged intervention emerged in December, Baker told reporters he believed Joseph should be benched while the incident was investigated.

"I don't believe she should be hearing criminal cases until that federal case is resolved," Baker said about Joseph. "Look, judges are not supposed to be in the business of obstructing justice. And as far as I can tell, based on the facts as they were presented, she clearly violated the court's own policies with respect to the way they're supposed to handle continuance and involve federal immigration enforcement."

Medina-Perez's freedom was short-lived. He was arrested a month later after the court hearing and again let go, this time by an immigration judge who freed him on bond, the Boston Globe reported. That case is currently pending, officials said. The 38-year-old native of the Dominican Republic had been previously deported in January 2003 and June 2007, ICE said. His real name is Oscar Manuel Peguero, although he goes by several aliases.



Metro

Federal judges in Boston are often sharply critical of ICE tactics



DAVID L. RYAN/GLOBE STAFF/FILE

US District Judge Mark L. Wolf.

By Maria Cramer

GLOBE STAFF MAY 22, 2018

US District Judge Mark L. Wolf peered down from the bench at the young prosecutor.

In the jury box, Lucimar de Souza sat in jail scrubs. The 49-year-old Brazilian mother of three had been in Suffolk County Jail for more than three months after federal officials detained her for violating a 16-year-old order that she leave the United States.

It was May 8, five days before Mother's Day, and the lawyer for the Department of Justice, Mary Larakers, was arguing that de Souza should remain in detention because she posed a flight risk. Wolf countered the government had failed to give her sufficient time to contest her detention.

"I hope your mother is still alive and you get to see her on Mother's Day," Wolf told Larakers. "But that's not going to happen for Miss de Souza. That's what we're talking about here."

The office of Immigration and Customs Enforcement released de Souza that night.

Wolf's sharp rhetoric was not an anomaly. Over the past year, federal judges in the Boston courthouse have been unusually outspoken in criticizing immigration cases, as the Trump administration steps up apprehensions and detentions. The critical judges include two Obama nominees, a Clinton nominee, and Wolf, a Reagan nominee.

In January, Chief US District Judge Patti B. Saris likened a group of Indonesian Christians facing possible deportation by the Trump administration to Jewish refugees trying to escape the Nazis. In April, Judge Indira Talwani rebuked ICE for arresting a Chinese national outside the courtroom after she had been placed on probation for fraud.

"I see no reason for places of redress and justice to become places that people are afraid to show up," Talwani said, according to Reuters.

In December, Judge Leo T. Sorokin ordered the release of a Yale University-educated Kenyan national who had been detained for nearly a year.

In a biting memorandum, Sorokin blasted the Department of Homeland Security's "repeated errors," which he said suggested "negligence, incompetence, or bad faith on the part of the agency."

The rulings come at a time when immigration attorneys say immigrants like de Souza are being arrested as they seek legal status, then detained for extended periods of time because of mistakes by the government.

On Tuesday, Wolf will hold a much-anticipated hearing during which he is expected to question ICE officials involved in de Souza's detention.

"This is absolutely uncharted territory, universally keeping all undocumented immigrants" in detention, said Susan Church, a Cambridge immigration attorney. "This administration has taken out every ounce of humanitarianism in its decision-making, and the judges are reacting to that."

John Mohan, an ICE spokesman, declined to comment on specific comments by judges, citing ongoing litigation.

"We strongly reject any allegation that ICE officers or agents in any way violate federal regulations, engage in inhumane practices, or act in anything other than a professional manner consistent with our mission to enforce federal law and protect the American people," Mohan said in an e-mail.

In an interview, the US attorney for Massachusetts, Andrew Lelling, said he believes the judges's comments stem from two factors: their intense dislike of Trump's immigration policies and ICE's procedural missteps as it works fast to carry out the administration's orders to ramp up enforcement.

"You have to have operational plans, you have to figure out how to do all these arrests, and I think that's been a strain" on ICE, Lelling said. "Sometimes mistakes are made, and I think judges are waiting for that mistake."

But Lelling, who defended ICE when its officers apprehended the Chinese national, said some judges have tried to broaden the narrow scope of federal jurisdiction over immigration matters.

"Some of our judges are motivated by their personal conclusions that it's unfair in certain instances to deport somebody, and that's not law. That's just their personal feelings," he said. "I think some of our judges need to be more disciplined in that area."

Lelling pointed to Saris's May 2 decision to allow a detained immigrant to marry his fiancée, an American citizen, during a court hearing.

"What happened there is the judge allowing a last-minute ceremony during a federal court hearing so [the immigrant] would have a better chance at avoiding deportation," Lelling said.

Saris declined to comment. In her order, Saris said she was allowing the marriage because the jail where he was being held would have made him wait five months to marry.

"Prisoners have the right to marry," Saris had said in the order.

The criticism comes as US District Court in Boston is hearing an increasing number of civil and criminal immigration cases.

From May 15, 2017, to May 15, 2018, there were 80 civil petitions for release by immigrants filed in the federal court, 43 percent more than in the same period from 2016 to 2017, and nearly 200 percent more than in the same period from 2015 to 2016, according to court statistics.

On the criminal side, the number of cases brought in Massachusetts by the US attorney's office against immigrants who reentered the country illegally was 35 as of May 15, nearly double what it was at the same time last year.

Lelling said that he is prioritizing the cases of undocumented immigrants who have committed other offenses or reentered the country illegally multiple times, which is a felony.

"We look at things on a case-by-case basis," he said.

The federal public defender's office said that many of its cases have involved immigrants who, aside from reentering the country illegally, have no criminal record, pay taxes, and have families or businesses.

On a recent Monday, Stellio Sinnis was the public defender on duty when he was handed six cases of people charged with illegal reentry, at least half of whom had no other criminal record. One man was taken into custody in front of his children as he dropped them off at school, Sinnis said.

"I've been here since 1992, and I can't remember anything like that happening," Miriam Conrad, the chief federal public defender in the state, said of the volume of cases.

Any reprieve that immigrants receive in federal district court is temporary, because the decision to deport ultimately rests with the government or an immigration court, said Muzaffar Chishti, director of the New York office of the Migration Policy Institute, a nonpartisan think that studies immigration and refugee policies worldwide.

But the judges's words and actions are underscoring a critical debate over the moral implications of Trump's policies which target immigrants who have been checking in with the government, Chishti said.

"They're the lowest-hanging fruit. They're in our system. They're the easiest to find," he said. "Is that the right policy?"

"That's a very important discussion for the country to have, which is what, in their way, the judges are saying."

Maria Cramer can be reached at mcramer@globe.com. Follow her on Twitter [@globemcramer](https://twitter.com/globemcramer).

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Page 49

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Page 50

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

From: Blank, Thomas
Sent: 24 Apr 2019 20:24:31 +0000
To: Benner, Derek N; Albence, Matthew; Kelly, Christopher S; (b)(6); (b)(7)(C)
Subject: RE: HSI Boston Anticipated Indictment of District Judge

Incredible story.

Thomas Blank
Chief of Staff
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
202 732-(b)(6);
Cell 202 5 (b)(7)(C)

From: Benner, Derek N
Sent: Wednesday, April 24, 2019 4:21 PM
To: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov; Kelly, Christopher S (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov
Subject: FW: HSI Boston Anticipated Indictment of District Judge

Matt, ES attached for Boston investigation

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C) @ice.dhs.gov
Date: Wednesday, Apr 24, 2019, 4:02 PM
To: Benner, Derek N (b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov; Allen, Matthew (b)(6); (b)(7)(C) v> (b)(6); (b)(7)(C) @ice.dhs.gov; (b)(6); (b)(7)(C) @ice.dhs.gov
Subject: FW: HSI Boston Anticipated Indictment of District Judge

Sir,

Per your request. DOM OPS provided the below and attached.

(b)(6);
(b)(7)(C)

From: (b)(6); (b)(7)(C)
Sent: Wednesday, April 24, 2019 3:57 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov
Subject: HSI Boston Anticipated Indictment of District Judge

Page 52

Withheld pursuant to exemption

(b)(6) ; (b)(7)(A) ; (b)(7)(C)

of the Freedom of Information and Privacy Act

From: Albence, Matthew
Sent: 25 Apr 2019 18:10:32 +0000
To: Short, Tracy;Blank, Thomas;Davis, Mike P
Subject: RE: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Indeed.

Sent with BlackBerry Work
(www.blackberry.com)

From: Short, Tracy (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Thursday, Apr 25, 2019, 1:58 PM
To: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov>, Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>, Davis, Mike P (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

This is a great day.

From: Palermo, Andre (b)(6); (b)(7)(C)
Sent: Thursday, April 25, 2019 1:22 PM
Subject: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Fox News
Katherine Lam
April 25, 2019

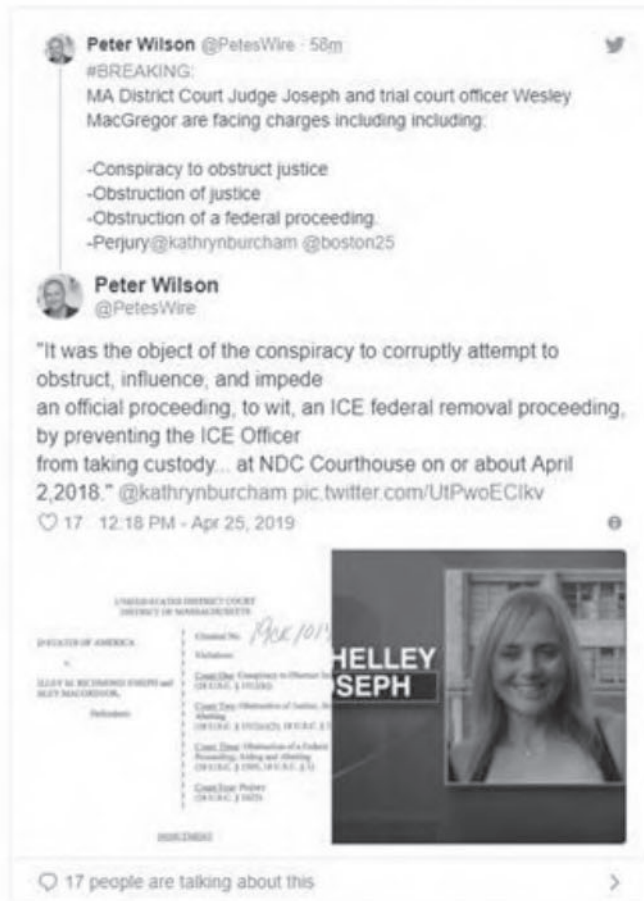
<https://www.foxnews.com/us/massachusetts-judge-who-helped-illegal-immigrant-escape-ice-arrest-indicted-federal-authorities-say>

A Massachusetts judge and a court officer accused of helping an illegal immigrant flee an Immigration and Customs Enforcement agent waiting to take him into custody were indicted Thursday by a federal grand jury for obstruction of justice and three other counts, officials said.

U.S. Attorney for the District of Massachusetts Andrew Lelling was set to officially announce the charges at a 12:45 p.m. news conference, according to a tweet from the office's official account.

Newton District Court Judge Shelley M. Richmond Joseph and the court officer, identified in court documents as Wesley MacGregor, face several charges stemming from an April 2, 2018 incident in which the pair allegedly helped Jose Medina-Perez get out of the courthouse via a back door in order to elude the ICE

agent who sought Medina-Perez. They're both charged with obstruction of justice, aiding and abetting; obstruction of a federal proceeding, aiding and abetting and conspiracy to obstruct justice. MacGregor was also charged with perjury before a federal grand jury.



Medina-Perez, a twice-deported illegal immigrant with a fugitive warrant for drunken driving in Pennsylvania, had been in Joseph's courtroom in order to be arraigned on drug charges, the Boston Globe reported.

ICE issued a detainer on Medina-Perez, a written request to hold an individual wanted for deportation for up to 48 hours, and had an agent waiting outside the courthouse to detain Medina-Perez after the arraignment, officials said. But during the hearing, Joseph asked Medina-Perez's attorney "ICE is going to get him?," according to courtroom recordings obtained by the [Boston Globe](#) in December and released in court documents on Thursday.

His lawyer was also heard telling Joseph "ICE will pick him up if he walks out the front door. But I think the best thing for us to do is clear the fugitive issue and release him on a personal, and hope that he can avoid ICE...That's the best I can do."

"What if we detain him?," the judge said before asking the clerk to turn off the courtroom's audio recorder, leaving the next 58 seconds unrecorded.

Minutes later, Medina-Perez's attorney said his client "has some property downstairs" and needed to speak to an interpreter, which Joseph allowed.

MacGregor then used his security access card to escort Medina-Perez out of the courthouse without being seen by the ICE agent, court documents stated.

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After reports of Joseph's alleged intervention emerged in December, Baker told reporters he believed Joseph should be benched while the incident was investigated.

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Medina-Perez's freedom was short-lived. He was arrested a month later after the court hearing and again let go, this time by an immigration judge who freed him on bond, the Boston Globe reported. That case is currently pending, officials said. The 38-year-old native of the Dominican Republic had been previously deported in January 2003 and June 2007, ICE said. His real name is Oscar Manuel Peguero, although he goes by several aliases.

From: Albence, Matthew
Sent: 25 Apr 2019 22:12:24 +0000
To: Benner, Derek N; Blank, Thomas; Kelly, Christopher S; (b)(6); (b)(7)(C)
(b)(6);
Subject: RE: Indictment of Massachusetts District Court Judge Shelley JOSEPH and Trial Court Officer Wesley MACGREGOR

10-4. Thanks.

Sent with BlackBerry Work
(www.blackberry.com)

From: Benner, Derek N (b)(6); (b)(7)(C)
Date: Thursday, Apr 25, 2019, 6:10 PM
To: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov>, Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>, Kelly, Christopher S (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Indictment of Massachusetts District Court Judge Shelley JOSEPH and Trial Court Officer Wesley MACGREGOR

Matt, court officer and judge self surrendered. Details below

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Date: Thursday, Apr 25, 2019, 5:37 PM
To: Benner, Derek N (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>
Cc: Allen, Matthew C (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) @ice.dhs.gov>, (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Indictment of Massachusetts District Court Judge Shelley JOSEPH and Trial Court Officer Wesley MACGREGOR

FYI.

(b)(6); (b)(7)(C)
Deputy Chief of Staff
Office of the Executive Associate Director
Homeland Security Investigations (HSI) Headquarters

O: (202) 732- (b)(6); (b)(7)(C)
C: (202) 365- (b)(6); (b)(7)(C)
E-mail: (b)(6); (b)(7)(C) @ice.dhs.gov

From: (b)(6); (b)(7)(C)
Sent: Thursday, April 25, 2019 5:37 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>

Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>

Subject: FW: Indictment of Massachusetts District Court Judge Shelley JOSEPH and Trial Court Officer Wesley MACGREGOR

Importance: High

Please see additional details below (highlighted) RE: Boston Judge and Officer court appearances.

From: (b)(6); (b)(7)(C)

Sent: Thursday, April 25, 2019 5:33 PM

To: (b)(6); (b)(7)(C) @ice.dhs.gov>

Cc: (b)(6); (b)(7)(C) @ice.dhs.gov> (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) @ice.dhs.gov>

Subject: FW: Indictment of Massachusetts District Court Judge Shelley JOSEPH and Trial Court Officer Wesley MACGREGOR

Importance: High

(b)(6); (b)(7)(A); (b)(7)(C)

(b)(6); (b)(7)(A); (b)(7)(C)

USAO Press Release:

<https://www.justice.gov/usao-ma/pr/massachusetts-district-court-judge-and-court-officer-indicted-obstruction-justice>

News Links:

<https://www.masslive.com/news/2019/04/trial-court-suspends-judge-shelley-joseph-without-pay-following-obstruction-of-justice-indictment.html>

<https://www.masslive.com/boston/2019/04/mass-ag-maura-healey-says-indictments-of-judge-shelley-joseph-court-officer-in-ice-case-is-radical-and-politically-motivated-attack-on-our-state.html>

<https://abcnews.go.com/US/judge-indicted-boston-refusing-undocumented-immigrant-detained/story?id=62630943>

<https://www.foxnews.com/us/massachusetts-judge-who-helped-illegal-immigrant-escape-ice-arrest-indicted-federal-authorities-say>

<https://www.boston25news.com/news/newton-judge-charged-with-allegedly-helping-undocumented-man-escape-ice/943390359>

<https://www.masslive.com/boston/2019/04/read-the-indictment-newton-district-court-judge-shelley-joseph-court-officer-accused-of-helping-defendant-avoid-ice-arrest.html>

(b)(6); (b)(7)(C)

Operations Manager

Desk: (202) 732- (b)(6); (b)(7)(C)

Mobile: (703) 40 (b)(6); (b)(7)(C)

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From: Albence, Matthew
Sent: 13 Mar 2019 02:22:36 +0000
To: Benner, Derek N; (b)(6); (b)(7)(C); (b)(6); (b)(7)(C)
Subject: RE: Investigative Update

10-4. Thanks.

From: Benner, Derek N
Sent: Tuesday, March 12, 2019 10:21 PM
To: Albence, Matthew; (b)(6); (b)(7)(C); @ice.dhs.gov; (b)(6); (b)(7)(C);
(b)(6); (b)(7)(C); @ice.dhs.gov; (b)(6); (b)(7)(C); @ice.dhs.gov
Subject: RE: Investigative Update

Talked to SAC Boston today and we should know on Thursday

Sent with BlackBerry Work
(www.blackberry.com)

From: Albence, Matthew; (b)(6); (b)(7)(C); @ice.dhs.gov
Date: Wednesday, Mar 06, 2019, 6:30 PM
To: Benner, Derek N; (b)(6); (b)(7)(C); @ice.dhs.gov; (b)(6); (b)(7)(C); @ice.dhs.gov;
(b)(6); (b)(7)(C); @ice.dhs.gov
Subject: RE: Investigative Update

10-4. This will def grow legs. It would be great to see the USA prosecute this.

Sent with BlackBerry Work
(www.blackberry.com)

From: Benner, Derek N <(b)(6); (b)(7)(C)>
Date: Wednesday, Mar 06, 2019, 3:28 PM
To: Albence, Matthew; (b)(6); (b)(7)(C); @ice.dhs.gov; (b)(6); (b)(7)(C); @ice.dhs.gov;
(b)(6); (b)(7)(C); @ice.dhs.gov
Subject: FW: Investigative Update

Matt Fysa on potential media interest.

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C); @ice.dhs.gov
Date: Wednesday, Mar 06, 2019, 6:21 PM
To: Benner, Derek N; (b)(6); (b)(7)(C); (b)(6); (b)(7)(C); @ice.dhs.gov; (b)(6);
(b)(6); (b)(7)(C); @ice.dhs.gov; (b)(6); (b)(7)(C); @ice.dhs.gov
Subject: FW: Investigative Update

Sirs/Ma'am:

(b)(5); (b)(6); (b)(7)(A); (b)(7)(C)

(b)(6);
(b)(7)(C)

Sent with BlackBerry Work
(www.blackberry.com)

From: Fitzhugh, Peter C <(b)(6); (b)(7)(C)>

Date: Wednesday, Mar 06, 2019, 4:52 PM

To: Allen, Matthew C <(b)(6); (b)(7)(C)> <(b)(6); (b)(7)(C)>@ice.dhs.gov>

Subject: Investigative Update

(b)(5); (b)(6); (b)(7)(A); (b)(7)(C)

Here is a link to the story:

<https://www.bostonglobe.com/metro/2018/12/01/newton-judge-role-reportedly-examined-after-immigrant-evades-ice/Mshdn3gllPZhVA7mZ9fa3M/story.html>

Please call me if you would like additional information.

Pete

Peter C. Fitzhugh
Special Agent in Charge
Homeland Security Investigations (HSI)
Boston, MA
Ofc. 617-565-(b)(6);
(b)(7)(C)
Cell 973-445-

From: Blank, Thomas
Sent: 25 Apr 2019 18:11:29 +0000
To: Short, Tracy
Subject: RE: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Blessed.

Thomas Blank
Chief of Staff
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
202 732 (b)(6); (b)(7)(C)
Cell 202 (b)(6); (b)(7)(C)

From: Short, Tracy
Sent: Thursday, April 25, 2019 1:59 PM
To: Albence, Matthew (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C) @ice.dhs.gov>; Davis, Mike P (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: FW: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

This is a great day.

From: (b)(6); (b)(7)(C)
Sent: Thursday, April 25, 2019 1:22 PM
Subject: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

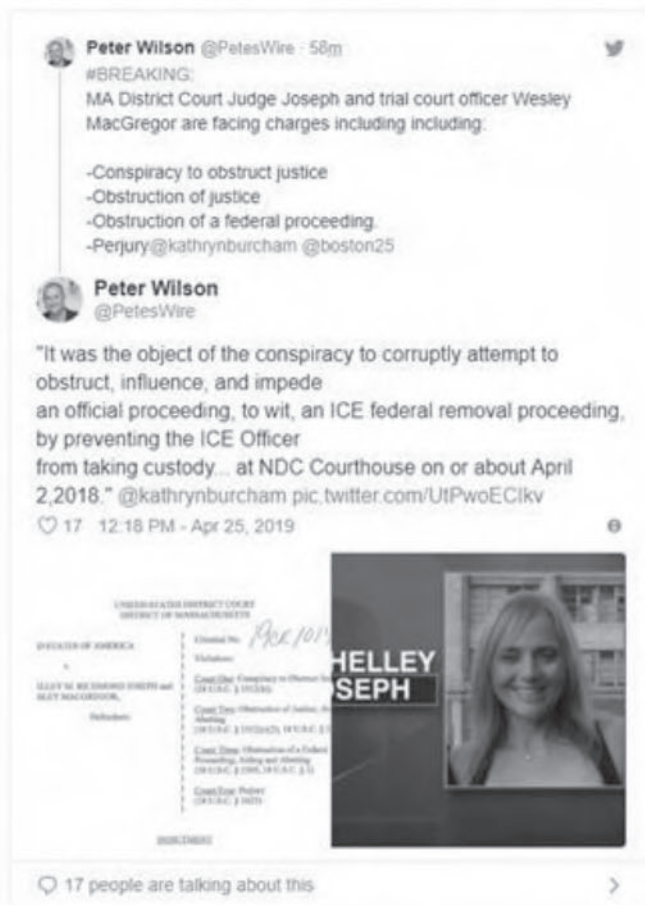
Fox News
Katherine Lam
April 25, 2019

<https://www.foxnews.com/us/massachusetts-judge-who-helped-illegal-immigrant-escape-ice-arrest-indicted-federal-authorities-say>

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From: (b)(6); (b)(7)(C)
Sent: Fri, 27 Apr 2018 18:36:44 +0000
To: Feere, Jon
Subject: RE: Thank you for the messaging correction
Importance: Normal

Thanks, Jon.

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Senior Counsel
Office of the Deputy Attorney General
U.S. Department of Justice
Office: (202) (b)(6); (b)(7)(C)
Mobile: (202) (b)(6); (b)(7)(C)

(b)(6);
(b)(7)(C)

From: Feere, Jon [redacted]@ice.dhs.gov>
Sent: Friday, April 27, 2018 2:34 PM
To: (b)(6); (b)(7)(C)
Subject: Thank you for the messaging correction

Thank you for the supportive quote from the U.S. attorney today regarding ICE arrests at courthouses:

U.S. Attorney Andrew Lelling in a statement late Thursday said the ICE agents who took Xinyan Wang, 27, into custody outside Boston's federal courthouse were "doing their jobs: enforcing federal law."

"Their efforts to protect the public should be applauded, not criticized," said Lelling, a Trump appointee.

[Top Massachusetts federal prosecutor defends court immigration arrest](#)

This is what was published Wednesday, of course:

The prosecutor, Assistant U.S. Attorney David Tobin, said: "Maybe I should have stopped it."

[U.S. judge criticizes immigration arrest of Chinese woman in exam scam](#)

"I've never seen it in 30 years," Tobin said in court.

[ICE Agents Crash Court To Detain Student, Upsetting Judge](#)

Jon

Jon Feere

Senior Advisor
U.S. Immigration and Customs Enforcement
Department of Homeland Security

~~***** This communication and any attachments may contain confidential and/or deliberative and/or law enforcement sensitive information. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient. Any disclosure of this communication or its attachments must be approved by U.S. Immigration and Customs Enforcement. *****~~

From: Palermo, Andrea
Sent: Thu, 25 Apr 2019 17:21:40 +0000
To: Undisclosed recipients:
Subject: Fox News: Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Massachusetts judge who helped illegal immigrant escape ICE arrest indicted, federal authorities say

Fox News

Katherine Lam

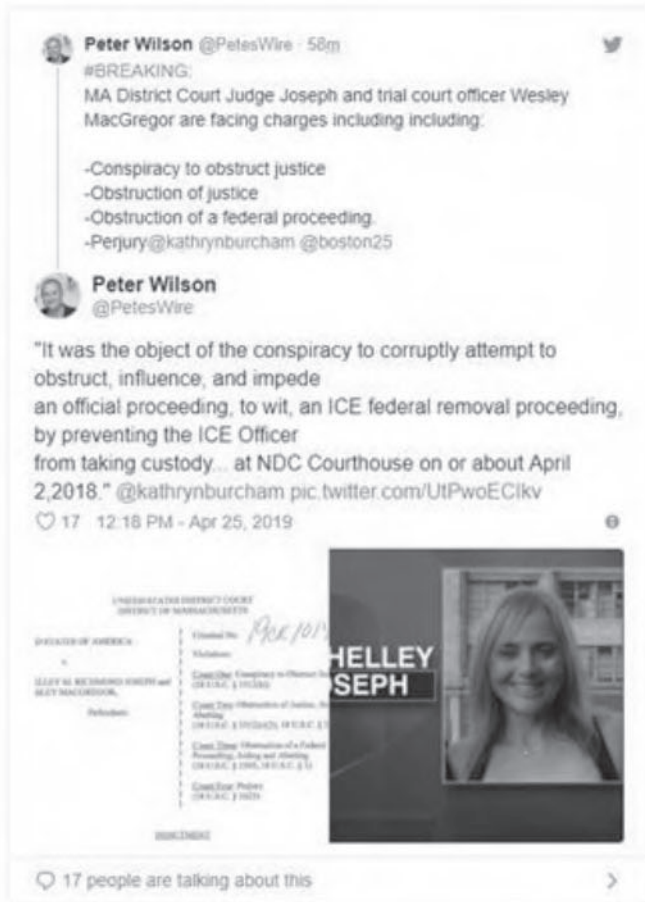
April 25, 2019

<https://www.foxnews.com/us/massachusetts-judge-who-helped-illegal-immigrant-escape-ice-arrest-indicted-federal-authorities-say>

A Massachusetts judge and a court officer accused of helping an illegal immigrant flee an Immigration and Customs Enforcement agent waiting to take him into custody were indicted Thursday by a federal grand jury for obstruction of justice and three other counts, officials said.

U.S. Attorney for the District of Massachusetts Andrew Lelling was set to officially announce the charges at a 12:45 p.m. news conference, according to a tweet from the office's official account.

Newton District Court Judge Shelley M. Richmond Joseph and the court officer, identified in court documents as Wesley MacGregor, face several charges stemming from an April 2, 2018 incident in which the pair allegedly helped Jose Medina-Perez get out of the courthouse via a back door in order to elude the ICE agent who sought Medina-Perez. They're both charged with obstruction of justice, aiding and abetting; obstruction of a federal proceeding, aiding and abetting and conspiracy to obstruct justice. MacGregor was also charged with perjury before a federal grand jury.



Medina-Perez, a twice-deported illegal immigrant with a fugitive warrant for drunken driving in Pennsylvania, had been in Joseph's courtroom in order to be arraigned on drug charges, the Boston Globe reported.

ICE issued a detainer on Medina-Perez, a written request to hold an individual wanted for deportation for up to 48 hours, and had an agent waiting outside the courthouse to detain Medina-Perez after the arraignment, officials said. But during the hearing, Joseph asked Medina-Perez's attorney "ICE is going to get him?," according to courtroom recordings obtained by the [Boston Globe](#) in December and released in court documents on Thursday.

His lawyer was also heard telling Joseph "ICE will pick him up if he walks out the front door. But I think the best thing for us to do is clear the fugitive issue and release him on a personal, and hope that he can avoid ICE...That's the best I can do."

"What if we detain him?," the judge said before asking the clerk to turn off the courtroom's audio recorder, leaving the next 58 seconds unrecorded.

Minutes later, Medina-Perez's attorney said his client "has some property downstairs" and needed to speak to an interpreter, which Joseph allowed.

MacGregor then used his security access card to escort Medina-Perez out of the courthouse without being seen by the ICE agent, court documents stated.

"With the recorder off, defendant Joseph and the Defense Attorney discussed devising a way to have [Medina-Perez] avoid being arrested by the ICE officer," court documents stated.

Joseph was appointed Newton District judge by Massachusetts Gov. Charlie Baker in 2017 after several years serving as a criminal defense attorney and a prosecutor, the Boston Globe reported.

After reports of Joseph's alleged intervention emerged in December, Baker told reporters he believed Joseph should be benched while the incident was investigated.

"I don't believe she should be hearing criminal cases until that federal case is resolved," Baker said about Joseph. "Look, judges are not supposed to be in the business of obstructing justice. And as far as I can tell, based on the facts as they were presented, she clearly violated the court's own policies with respect to the way they're supposed to handle continuance and involve federal immigration enforcement."

Medina-Perez's freedom was short-lived. He was arrested a month later after the court hearing and again let go, this time by an immigration judge who freed him on bond, the Boston Globe reported. That case is currently pending, officials said. The 38-year-old native of the Dominican Republic had been previously deported in January 2003 and June 2007, ICE said. His real name is Oscar Manuel Peguero, although he goes by several aliases.

From: Hernandez-Winkelmann, Laura
Sent: Thu, 25 Apr 2019 19:43:45 +0000
To: Hernandez-Winkelmann, Laura; Albence, Matthew; Kelly, Christopher S
Subject: Howie Carr Show
Attachments: Joseph and MacGregor indictment.pdf, HSI Boston Obstruction ES April 2019.docx

Aired live.

More info here: <https://www.boston25news.com/news/did-a-newton-judge-help-an-undocumented-immigrant-escape-ice-/883369999>

This would be the first instance of a sanctuary city official getting arrested for letting illegal immigrant criminals evade the feds.

DOJ Press Release:

Department of Justice



**United States Attorney Andrew E. Lelling
District of Massachusetts**

FOR IMMEDIATE RELEASE
April 25, 2019
www.justice.gov/usao/ma/news.html

CONTACT: CHRISTINA DI IORIO-STERLING
Phone (617) 748-3356
usama.media@usdoj.gov

twitter.com/dmanews1

MASSACHUSETTS DISTRICT COURT JUDGE AND COURT OFFICER INDICTED FOR OBSTRUCTION OF JUSTICE

BOSTON – A Massachusetts District Court Judge and Trial Court Officer were indicted today in federal court in Boston on obstruction of justice charges for preventing an ICE Officer from taking custody of an alien defendant.

Shelley M. Richmond Joseph, 51, of Natick, who was appointed as a Massachusetts District Court Judge in November 2017, and Wesley MacGregor, 56, of Watertown, a former Trial Court Officer

since 1993, were indicted on one count of conspiracy to obstruct justice and two counts of obstruction of justice – aiding and abetting. MacGregor was also charged with one count of perjury.

“This case is about the rule of law,” said United States Attorney Andrew E. Lelling. “The allegations in today’s indictment involve obstruction by a sitting judge, that is intentional interference with the enforcement of federal law, and that is a crime. We cannot pick and choose the federal laws we follow, or use our personal views to justify violating the law. Everyone in the justice system – not just judges, but law enforcement officers, prosecutors, and defense counsel – should be held to a higher standard. The people of Massachusetts expect that, just like they expect judges to be fair, impartial and to follow the law themselves.”

“When we as officers of the law are confronted with an abuse within our system, we take those allegations seriously. Any conduct which severs the underlying trust that the citizens of this Commonwealth place in those who hold positions of power and authority is a stain on all who swear an oath to protect and serve, with honor and integrity,” said Peter C. Fitzhugh, Special Agent in Charge, U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) Boston. “The people of this country deserve nothing less than to know that their appointed and elected representatives are working on their behalf, while adhering to and enforcing the rule of law, not a personal agenda. The special agents of Homeland Security Investigations remain committed to upholding our promise to the public, without compromise.”

“The actions of the judge in this incident are a detriment to the rule of law and highly offensive to the law enforcement officers of ICE who swear an oath to uphold our nation’s immigration laws,” said Todd M. Lyons, Acting Field Office Director, U.S. Immigration and Customs Enforcement (ICE)’s Enforcement and Removal Operations, Boston. “In order for our criminal justice system to work fairly for all people, it must be protected against judicial officials who would seek to replace the implementation of our laws with their own ideological views or politically-driven agenda. I would also like to thank U.S. Attorney Lelling for his local leadership and his continuous and faithful support of the ERO law enforcement mission.”

According to court documents, on March 30, 2018, Newton Police arrested and charged an alien defendant under Massachusetts General Law with being a fugitive from justice and narcotics possession. Further investigation revealed that the defendant had twice been deported from the United States - in 2003 and 2007, and that a federal order had been issued prohibiting the defendant from entering the U.S. until 2027. After learning of the defendant’s arrest, ICE issued a Federal Immigration Detainer and Warrant of Removal, which stated that the defendant was subject to removal from the United States. On April 2, 2018, Newton Police transferred custody of the defendant to Newton District Court (NDC), where Joseph was assigned as the District Court Judge and MacGregor as a Trial Court Officer, and forwarded the Detainer and Warrant.

At 9:30 a.m. on April 2, 2018, a plainclothes ICE officer was dispatched to NDC to execute the Warrant and take custody of the defendant following his release from NDC. The Officer announced his presence to Courthouse personnel, including Joseph, upon arrival. Prior to the afternoon session, the courtroom clerk – at Joseph’s direction – allegedly instructed the ICE Officer to leave the courtroom and wait outside in the lobby, stating that in the event that the defendant was released, it would be through the courtroom and into the lobby.

At 2:48 p.m. the case was called and the proceedings were captured on the courtroom's audio recorder, as prescribed under the rules for all State District Courts. The audio recording captured Joseph, the defense attorney and the ADA speaking at side bar about the defendant and the ICE detainer. Joseph then allegedly ordered the courtroom clerk to "go off the record for a moment." For the next 52 seconds, the courtroom audio recorder was turned off, in violation of the District Court rules. At 2:51 p.m., the recorder was turned back on, and Joseph indicated her intent to release the defendant. According to the charging documents, the defense attorney asked to speak with the defendant downstairs and Joseph responded, "That's fine. Of course." When reminded by the clerk that an ICE Officer was in the courthouse, Joseph stated, "That's fine. I'm not gonna allow them to come in here. But he's been released on this." Immediately following the proceeding, MacGregor allegedly escorted the defendant, his attorney and an interpreter downstairs to the lockup and used his security access card to open the rear sally-port exit and release the defendant at 3:01 p.m.

MacGregor was also charged with perjury for falsely testifying before a federal grand jury on July 12, 2018, that, prior to releasing the defendant from the sally-port exit, he was unaware that ICE agents were in the Courthouse and that there was a detainer for the defendant.

The charges of conspiracy to obstruct justice and obstruction of a federal proceeding – aiding and abetting provide for sentences of no greater than 20 and five years in prison, respectively; five and three years of supervised release, respectively; and a fine of \$250,000. The charge of perjury provides for a sentence of no greater than five years in prison, three years of supervised release, and a fine of \$250,000. Sentences are imposed by a federal district court judge based upon the U.S. Sentencing Guidelines and other statutory factors.

U.S. Attorney Lelling, HSI SAC Fitzhugh and ERO Acting FOD Lyons made the announcement today. Assistant U.S. Attorneys Dustin Chao and Christine Wichers of Lelling's Criminal Division are prosecuting the case.

The details contained in the indictment are allegations. The defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

###

From: Blank, Thomas
Sent: Wed, 24 Apr 2019 00:37:27 +0000
To: Benner, Derek N; Albence, Matthew
Cc: Murphy, Matthew R; Kelly, Christopher S
Subject: RE: HSI Boston Anticipated Indictment of District Judge

Amazing facts.

Sent with BlackBerry Work
(www.blackberry.com)

From: Benner, Derek N <(b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Tuesday, Apr 23, 2019, 8:29 PM
To: Albence, Matthew <(b)(6); (b)(7)(C)@ice.dhs.gov>, Blank, Thomas <(b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: Murphy, Matthew R <(b)(6); (b)(7)(C)@ice.dhs.gov>, Kelly, Christopher S <(b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: FW: HSI Boston Anticipated Indictment of District Judge

Matt, sensitive info below but I wanted to get you a heads up tonight. A full ES is being completed for tomorrow.

Sent with BlackBerry Work
(www.blackberry.com)

From: Allen, Matthew C <(b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Tuesday, Apr 23, 2019, 8:24 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>, Benner, Derek N <(b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: FW: HSI Boston Anticipated Indictment of District Judge

Ma'am/Sir,


As mentioned earlier, below is a summary of the HSI Boston investigation that we anticipate going before a Federal Grand Jury on Thursday. We expect the USAO to seek an indictment against the Massachusetts District Judge, the Court Officer and the Defense Attorney. Whether the GJ will vote a true bill against all three is unknown.

We will have a more detailed ES for you in the morning.

Matt

From: (b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Tuesday, Apr 23, 2019, 8:12 PM
To: Allen, Matthew C <(b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: HSI Boston Anticipated Indictment of District Judge

(b)(6); (b)(7)(A); (b)(7)(C)



From: Blank, Thomas
Sent: Wed, 24 Apr 2019 20:24:31 +0000
To: Benner, Derek N; Albence, Matthew; Kelly, Christopher S; Murphy, Matthew R
Subject: RE: HSI Boston Anticipated Indictment of District Judge

Incredible story.

Thomas Blank
Chief of Staff
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
202 732 (b)(6); (b)(7)(C)
Cell 202 (b)(6); (b)(7)(C)

From: Benner, Derek N
Sent: Wednesday, April 24, 2019 4:21 PM
To: Albence, Matthew (b)(6); (b)(7)(C)@ice.dhs.gov>; Kelly, Christopher S (b)(6); (b)(7)(C)@ice.dhs.gov>; Murphy, Matthew R (b)(6); (b)(7)(C)@ice.dhs.gov>; Blank, Thomas (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: FW: HSI Boston Anticipated Indictment of District Judge

Matt, ES attached for Boston investigation

Sent with BlackBerry Work
(www.blackberry.com)

From: (b)(6); (b)(7)(C)@ice.dhs.gov>
Date: Wednesday, Apr 24, 2019, 4:02 PM
To: Benner, Derek N (b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C)@ice.dhs.gov>, Murphy, Matthew R (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, Allen, Matthew C (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>, (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: FW: HSI Boston Anticipated Indictment of District Judge

Sir,

Per your request. DOM OPS provided the below and attached.

(b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)
Sent: Wednesday, April 24, 2019 3:57 PM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: HSI Boston Anticipated Indictment of District Judge

(b)(6); (b)(7)(A); (b)(7)(C)



From: Kelly, Christopher S
Sent: Thu, 25 Apr 2019 18:35:52 +0000
To: Blank, Thomas; (b)(6); (b)(7)(C); Hernandez-Winkelmann, Laura; Albence, Matthew
Cc: (b)(6); (b)(7)(C)
Subject: RE: Boston Radio Request via White House

Checking.

From: Blank, Thomas
Sent: Thursday, April 25, 2019 2:34 PM
To: (b)(6); (b)(7)(C) @ice.dhs.gov>; Kelly, Christopher S <(b)(6); (b)(7)(C)@ice.dhs.gov>; Hernandez-Winkelmann, Laura <(b)(6); (b)(7)(C)@ice.dhs.gov>; Albence, Matthew <(b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>
Subject: RE: Boston Radio Request via White House

I recommend he does this if he can.

Thomas Blank
Chief of Staff
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
202 732 (b)(6); (b)(7)(C)
Cell 202 (b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)
Sent: Thursday, April 25, 2019 2:32 PM
To: Kelly, Christopher S <(b)(6); (b)(7)(C)@ice.dhs.gov>; Hernandez-Winkelmann, Laura <(b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C) @ice.dhs.gov>; Blank, Thomas <(b)(6); (b)(7)(C)@ice.dhs.gov>
Subject: Boston Radio Request via White House

All:

Is Matt in a place where he could (if he wanted to) do a radio call for the Howie Carr show between 5-7 to discuss the indictment of the judge in Massachusetts who let an illegal alien out the back door of the courthouse to escape an ICE arrest?

Our Boston FOD is also doing the radio show, but they were hoping to also have AD1 on. Boston SAC participated in press conference w/US Attorney.

DOJ release is below.

This request came through the WH. They asked for POTUS, who is unavailable, so recommended ICE. Howie Carr is a conservative and good place for our message.

Thanks,

(b)(6); (b)(7)(C)

Department of Justice



**United States Attorney Andrew E. Lelling
District of Massachusetts**

FOR IMMEDIATE RELEASE

CONTACT: CHRISTINA DiIORIO-

STERLING

April 25, 2019

Phone (617) 748-

3356

www.justice.gov/usao/ma/news.html

usama.media@usdoj.gov

twitter.com/dmanews1

MASSACHUSETTS DISTRICT COURT JUDGE AND COURT OFFICER INDICTED FOR OBSTRUCTION OF JUSTICE

BOSTON – A Massachusetts District Court Judge and Trial Court Officer were indicted today in federal court in Boston on obstruction of justice charges for preventing an ICE Officer from taking custody of an alien defendant.

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At 9:30 a.m. on April 2, 2018, a plainclothes ICE officer was dispatched to NDC to execute the Warrant and take custody of the defendant following his release from NDC. The Officer announced his presence to Courthouse personnel, including Joseph, upon arrival. Prior to the afternoon session, the courtroom clerk – at Joseph’s direction – allegedly instructed the ICE Officer to leave the courtroom and wait outside in the lobby, stating that in the event that the defendant was released, it would be through the courtroom and into the lobby.

At 2:48 p.m. the case was called and the proceedings were captured on the courtroom’s audio recorder, as prescribed under the rules for all State District Courts. The audio recording captured Joseph, the defense attorney and the ADA speaking at side bar about the defendant and the ICE detainer. Joseph then allegedly ordered the courtroom clerk to “go off the record for a moment.” For the next 52 seconds, the courtroom audio recorder was turned off, in violation of the District Court rules. At 2:51 p.m., the recorder was turned back on, and Joseph indicated her intent to release the defendant. According to the charging documents, the defense attorney asked to speak with the defendant downstairs and Joseph responded, “That’s fine. Of course.” When

reminded by the clerk that an ICE Officer was in the courthouse, Joseph stated, “That’s fine. I’m not gonna allow them to come in here. But he’s been released on this.” Immediately following the proceeding, MacGregor allegedly escorted the defendant, his attorney and an interpreter downstairs to the lockup and used his security access card to open the rear sally-port exit and release the defendant at 3:01 p.m.

MacGregor was also charged with perjury for falsely testifying before a federal grand jury on July 12, 2018, that, prior to releasing the defendant from the sally-port exit, he was unaware that ICE agents were in the Courthouse and that there was a detainer for the defendant.

The charges of conspiracy to obstruct justice and obstruction of a federal proceeding – aiding and abetting provide for sentences of no greater than 20 and five years in prison, respectively; five and three years of supervised release, respectively; and a fine of \$250,000. The charge of perjury provides for a sentence of no greater than five years in prison, three years of supervised release, and a fine of \$250,000. Sentences are imposed by a federal district court judge based upon the U.S. Sentencing Guidelines and other statutory factors.

U.S. Attorney Lelling, HSI SAC Fitzhugh and ERO Acting FOD Lyons made the announcement today. Assistant U.S. Attorneys Dustin Chao and Christine Wichers of Lelling’s Criminal Division are prosecuting the case.

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###

From: Hernandez-Winkelmann, Laura
Sent: Thu, 25 Apr 2019 19:43:42 +0000
To: Albence, Matthew; Kelly, Christopher S
Subject: Howie Carr Show
Attachments: Joseph and MacGregor indictment.pdf, HSI Boston Obstruction ES April 2019.docx

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DOJ Press Release:

Department of Justice



**United States Attorney Andrew E. Lelling
District of Massachusetts**

FOR IMMEDIATE RELEASE
April 25, 2019
www.justice.gov/usao/ma/news.html

CONTACT: CHRISTINA DI IORIO-STERLING
Phone (617) 748-3356
usama.media@usdoj.gov

twitter.com/dmanews1

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###